

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
32-CA-114306	09/27/2013

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer Tesla		b. Tel. No. 510-249-2500	
		c. Cell No.	
d. Address (street, city, state ZIP code) 45500 Fremont Blvd. Fremont, CA 94538		e. Employer Representative Elon Musk	
		f. Fax No.	
		g. e-Mail	
		h. Dispute Location (City and State) Fremont, CA	
i. Type of Establishment (factory, nursing home, hotel) Automobile Manufacturer		j. Principal Product or Service automobiles	
		k. Number of workers at dispute location	
l. The above-named employer has engaged in and is engaging unfair labor practices within the meaning of section 8(a), subsections (1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)			
Within the last six months, the above-named employer retaliated against (b) (6), (b) (7)(C) by issuing (b) (6), (b) (7)(C) a disciplinary warning and then terminating (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) engaged in protected concerted activity.			
3. (b) (6), (b) (7)(C) filing charge (if labor organization, give full name, including local name and number)			
4a. Address (street and number, city, state, and ZIP code) (b) (6), (b) (7)(C)		4b. Tel. No. (b) (6), (b) (7)(C)	
		4c. Cell No.	
		4d. Fax No.	
		4e. e-Mail	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)			
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge.		Tel. No. (b) (6), (b) (7)(C)	
By (b) (6), (b) (7)(C) an individual		Office, if any, Cell No.	
(Signature and printed name of charging party)		Fax No.	
Print Name and Title		e-Mail	
Address: (b) (6), (b) (7)(C)		Date: 9/27/2013	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

(b) (6), (b) (7)(C)



November 6, 2013

By Electronic Filing

Nicholas L. Tsiliacos
Field Examiner
National Labor Relations Board
Region 32
1301 Clay St, Ste 300N
Oakland, CA 94612-5224

RE: Tesla Motors, Inc. and (b) (6), (b) (7)(C)
Case 32-CA-114306

Dear Mr. Tsiliacos:

This shall serve as Tesla Motors, Inc.'s ("Tesla's") response to the unfair labor practice charge filed by (b) (6), (b) (7)(C) who alleges that Tesla disciplined and discharged (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) engaged in protected concerted activity, i.e., (b) (6), (b) (7)(C) complained to Tesla's (b) (6), (b) (7)(C) about (b) (6), (b) (7)(C). As set forth below, (b) (6), (b) (7)(C) will not be able to meet (b) (6), (b) (7)(C) burden of persuasion. First, (b) (6), (b) (7)(C) cannot show that the decision makers, particularly those who decided to issue (b) (6), (b) (7)(C) a written warning, were aware of (b) (6), (b) (7)(C) complaint. Specifically, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) were unaware of (b) (6), (b) (7)(C) actions at the time they decided to issue (b) (6), (b) (7)(C) a written warning. Because (b) (6), (b) (7)(C) cannot show that decision makers were aware of (b) (6), (b) (7)(C) complaint, (b) (6), (b) (7)(C) cannot show that Tesla took action against (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) complained. Second, (b) (6), (b) (7)(C) has no direct or circumstantial evidence to show that Tesla was motivated to take action against (b) (6), (b) (7)(C) because of (b) (6), (b) (7)(C) complaint. To the contrary, Tesla discharged (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) continually missed work and failed to follow Tesla's call out policy, meaning that (b) (6), (b) (7)(C) was considered a no call/no show. Nor can (b) (6), (b) (7)(C) show that Tesla treated (b) (6), (b) (7)(C) differently than similarly situated employees. Tesla treated (b) (6), (b) (7)(C) no differently than it treated others who worked in the (b) (6), (b) (7)(C) who failed to comply with the attendance policy. Hence, because there is no evidence that Tesla took adverse action against (b) (6), (b) (7)(C) because of (b) (6), (b) (7)(C) complaint, (b) (6), (b) (7)(C) charge must be dismissed.

Factual Background

Tesla Motors and its Policies

Tesla, which was founded in 2003, is the leading manufacturer of electric vehicles. Tesla's goal is to accelerate the world's transition to electric vehicles by manufacturing cars that are fun to drive and environmentally responsible. Tesla manufactures the Model S, a four-door luxury door sedan, in its Fremont, California factory.

As with any company, there is an element of risk involved in its employees that “attends to the most important factors in the company’s success.”

... book in effect all relevant time herein is attached hereto as Ex. 1. Tesla
 advises employees that they are not to be on duty for that day" (Ex. 1. attached)

eoth compales ever Tes l attendanc
of p s one ceives. Instead.
enloyee hat they will b ir absences excessive, i.e., "if t
occur I hese advise apl only
be acc excessive or fthe absences were suppl d by a do
advi excessive abse lead to "c disciplinary
es n e ne what level of di e so n
to determin e level of if t ssue. Ir ne ca
supervi warning in others th or may issue a
itho ving pr ously i men warning; a l, ation
supervisor may discharge an employee ro ndance ev c formal w ing had br

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
 No information

[illegible]

Because tardiness reduces teamwork and negatively impacts productivity, it is important to be in your workstation with [personal electronic device] on working at least 15 minutes before the start of the shift, up until break and immediately following break.

provide to (b) in (b) (6), 2013, as attached hereto as Exhibit 1. (b) (b) throughout (b) employ

Employees were [redacted] that either [redacted] or sending a text was [redacted] it sufficient. Rather, they had to call their supervisor. In fact, [redacted] (b) (6), (b) (7)(C) supervisor specifically [redacted] call [redacted] and an email that they would be [redacted] (b) (6), (b) (7)(C) [redacted] was to ensure that the supervisor was aware of the situation and knew how to [redacted] re manufa [redacted]

¹ Tesla's policy prohibiting the carrying

of those who were disciplined who, like [REDACTED] (b) (6), (b) (7)(C)

assigned to work (b) (6), (b) (7)(C) when (b) (6), (b) (7)(C) s
assigned to work on (b) (6), (b) (7)(C) While (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) employment was (b) (6), (b) (7)(C) ed by name (b) (6), (b) (7)(C) i es incl (b) (6), (b) (7)(C) ig pool (b) (6), (b) (7)(C) Between
(b) (6), (b) (7)(C) 201 (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) ssed (b) (6), (b) (7)(C) of work and left early (b) (6), (b) (7)(C) a
(b) (6), (b) (7)(C) ticular (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) missed in (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) did n follow (b) (6), (b) (7)(C) policy (b) (6), (b) (7)(C) approach (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C) old (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) had verbally
(b) (6), (b) (7)(C) about (b) (6), (b) (7)(C) attendance (b) (6), (b) (7)(C) w the call in (b) (6), (b) (7)(C) policy and that, since
was nc (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) At (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) sed (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) a
Musk, (b) (6), (b) (7)(C) Musk, Tesla's CEO and chairman (b) (6), (b) (7)(C) not
learn (b) (6), (b) (7)(C) 2013, when (b) (6), (b) (7)(C) l the final (b) (6), (b) (7)(C) w:
(b) (6), (b) (7)(C) was (b) (6), (b) (7)(C) g problems on the (b) (6), (b) (7)(C) ction
(b) (6), (b) (7)(C) was (b) (6), (b) (7)(C) kers and (b) (6), (b) (7)(C) would (b) (6), (b) (7)(C) erfo (b) (6), (b) (7)(C) tain
job out (b) (6), (b) (7)(C) end in Human Resour (b) (6), (b) (7)(C) could protect (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) cid at they (b) (6), (b) (7)(C) could iss (b) (6), (b) (7)(C) written warning (b) (6), (b) (7)(C) or re: (b) (6), (b) (7)(C) ed
below the issuance of the final written w (b) (6), (b) (7)(C) s was uel

vents (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) r emp (b) (6), (b) (7)(C) uet with (b) (6), (b) (7)(C) i in (b) (6), (b) (7)(C) ir workplac
(b) (6), (b) (7)(C) ited by (b) (6), (b) (7)(C) who had an unefined (b) (6), (b) (7)(C) in
(b) (6), (b) (7)(C) n a (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) showed (b) (6), (b) (7)(C) also
ged mat (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) people in public. (b) (6), (b) (7)(C) also stated that (b) (6), (b) (7)(C) cars were
sold with the (b) (6), (b) (7)(C) fasten (b) (6), (b) (7)(C) quent in (b) (6), (b) (7)(C) gatio found this to be without (b) (6), (b) (7)(C) t.

t Musk sent an email to everybody at T (b) (6), (b) (7)(C) per (b) (6), (b) (7)(C) ar wrote:

more issues have come to my attention that are also stoppers, so let me spell
out a few other important principles

to a* policy - want (b) (6), (b) (7)(C) ensibilities by using the
full w (b) (6), (b) (7)(C) a su (b) (6), (b) (7)(C) an figure it out (b) (6), (b) (7)(C) hat this me (b) (6), (b) (7)(C) who
(b) (6), (b) (7)(C) ke an a* wil after bei (b) (6), (b) (7)(C) eorm, be a
to (b) (6), (b) (7)(C) esia. (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) you ha (b) (6), (b) (7)(C) ect. A (b) (6), (b) (7)(C) everyone is an a*
some of t (b) (6), (b) (7)(C) it i (b) (6), (b) (7)(C) ot ok t (b) (6), (b) (7)(C) e an (b) (6), (b) (7)(C) e time, particularly for (b) (6), (b) (7)(C) sons that
(b) (6), (b) (7)(C) nothing to do with the success o (b) (6), (b) (7)(C) ur company. (b) (6), (b) (7)(C) er for Tesla to s
(b) (6), (b) (7)(C) nd (b) (6), (b) (7)(C) the big auto companies or we wil
survive (b) (6), (b) (7)(C) e to be very demanding, but always try to do (b) (6), (b) (7)(C) t business and

³ Similarly, (b) (6), (b) (7)(C) did not k (b) (6), (b) (7)(C) had met with Musk.

⁴ It was unusual for Musk to have employees to hear their concerns. He invited employees to learn their concerns. He was the floor to talk with employees directly to learn their concerns.

2. If you are any level you --
you are there n and h

ork harder than
report to v and always make sure that their needs are taken care of before

ext ended to if happened
ther the, don't know how
the promotions and terminations are
cer was a in, whether v a is s

my final p sh is that ers r
g pe d to play favorites. This appl
he job. ell

the review that sta... n... will b grade
air team but anyone at Tesla will have the opp... to submit review on yone
ger your coworkers something in anou... your VP
me better
r, you able to s rious levels of
so that your dept VP only n... There
le if a, sc review to if you k
some... really hurts the c ty or you believ... be lack of
action VP lev

If ve rules is simple: just behave like tl or pe or d
as your r be a fair and t compan where people look
forw to coming to work in the mor. Life is too sho anything else.

(A the email is attached here exhibit...

After Musk's n... iven sc of (b) (6), (b) (7)(C) comments, (b) (6), (b) (7)(C) t
believe... comment by Musk was (b) (6), (b) (7)(C) response, a
nun... co-w... to praising (b) (6), (b) (7)(C) (A t... correct copy of
the communicat... is ched h as

(b) (6), (b) (7)(C) ing (b) (6), (b) (7)(C) among other thi... Tesla was conce...
ation. The concerned was heightened when, on (b) (6), (b) (7)(C)
2013, one of (b) (6), (b) (7)(C) orke (b) (6), (b) (7)(C) who also met with... on (b) (6), (b) (7)(C) 2013, was
discharg... discharged (b) (6), (b) (7)(C) se... did not com... equeste... and did not
follow up... a... snol

After (b) (6), (b) (7)(C) learned of (b) (6), (b) (7)(C) discharge, (b) (6), (b) (7)(C) wrote to Musk... true and correct copy of (b) (6), (b) (7)(C)
email... attached hereto it 6.) In response, (b) (6), (b) (7)(C) from (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) met wit (b) (6), (b) (7)(C) ev... ing A tri... id correct sumr y of this n... ing is
attached hereto as EXHIBIT 7.) in... g, (b) (6), (b) (7)(C) speaking, in a

Mr. Nicholas Tsiliacos – November 6, 2013 - pg. 9

For these reasons, (b) (6), (b) (7) cannot meet (b) (6), (b) (7) burden of showing that Tesla was motivated to discipline and discharge (b) (6), (b) (7). Accordingly, (b) (6), (b) (7) claim must fail.

Very truly yours,



Steven M. Cooper
Associate General Counsel

Encls.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510)637-3300
Fax: (510)637-3315

November 25, 2013

(b) (6), (b) (7)(C)

Re: Tesla
Case 32-CA-114306

Dear (b) (6), (b) (7)(C)

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

A handwritten signature in cursive script that reads "George Velastegui".

GEORGE VELASTEGUI
Acting Regional Director

cc: ELON MUSK
TESLA
45500 FREMONT BLVD.
FREMONT, CA 94538

STEVEN M. COOPER
TESLA
45500 FREMONT BLVD.
FREMONT, CA 94538